

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
EASTERN DIVISION**

Civil Action No. 4:11-CV-00094-BO

BRUCE BANNISTER; MAX DUTTON;  
and MARION TOWLES;

Towles,

vs.

WAL-MART STORES EAST, L.P.,

Defendant.

**APPENDIX TO DEFENDANT'S  
MOTION FOR SUMMARY  
JUDGMENT REGARDING MAX  
DUTTON'S CLAIMS**

**F-1**

**Declaration of Tracey Battle Exhibit 1**

T. Moore Email to T. Battle (4/2/2009)

Message

**From:** Vtbattle@aol.com [Vtbattle@aol.com]  
**Sent:** 9/11/2009 12:27:34 AM  
**To:** Tracey Battle [t2battl@wal-mart.com]  
**Subject:** Fwd: MAX STORE 2000

---

From: tonjaobx2000@yahoo.com  
To: VTBATTLE@AOL.COM  
Sent: 4/2/2009 2:07:23 P.M. Eastern Daylight Time  
Subj: Re: MAX STORE 2000

--- On Tue, 3/31/09, tonjaobx2000@yahoo.com <tonjaobx2000@yahoo.com> wrote:

From: tonjaobx2000@yahoo.com <tonjaobx2000@yahoo.com>  
Subject: MAX STORE 2000  
To: T2BATTL@WALMART.COM  
Date: Tuesday, March 31, 2009, 12:39 PM  
TONJA MOORE--EX ASSISTANT MANAGER (STORE 2000) ABOUT MAX DUTTON---STORE MANAGER

JOB RELATED

1. LOOK AT TERESA SCH. (UPC ASSOCIATE---HOURLY)  
LOOK AT OVERTIME HOURS. MAX ALLOWS HER TO WORK ALL THE OVERTIME SHE WANTS DUE TO HER DOING ALL HIS WORK. TERESA HAS TO STAY OVER AND WORK WEEKENDS TO TRY TO KEEP UP HER WORK IN HER OFFICE. TERESA USUALLY WORKS TIL 6 OR 7PM EVERY DAY AND ALSO EVERY SATURDAY. MAX REPORTS TO THE MARKET TEAM THAT SHE IS WORKING AS A CSM OR ON REGISTER OR DSD. SHE NEVER WORKS AS CSM AND AS FAR AS DSD MARK SAW. OR SHIRLEY CRA. WORKS DSD ON SATURDAY. TERESA USUALLY CLEARS ON HER CHECK \$1,700.00 .  
ALL OVERTIME!!!!!!!!!!!!
2. THE MARKET TEAM NEEDS TO CHECK ALL THE ASSISTANTS SHRINK MATRIX. IT'S NOT THIER FAULT IT IS NOT DONE AND WAY BEHIND. ALSO THE TOUR BOOKS ARE NOT COMPLETE. THE ASSISTANTS HAVE ALWAYS DONE EVERYTHING THAT GOES ON PAPER BUT MAX WILL NOT LET THE ASSISTANTS SIT DOWN TO DO ANY PAPER WORK. IF YOU DID AND HE SAW YOU MAX WOULD MAKE IT A BIG DEAL AND CALL THE ASSISTANT AN OFFICE MONGRUIL.
3. WHEN AN ASSISTANT WOULD GET A SCHEDULED DAY OFF HE WOULD ALWAYS MAKE COMMINTS ( HOW WAS YOUR VACATION OR YOU HAD ANOTHER DAY OFF ) HE WOULD SAY THIS IN FRONT OF ASSOCIATES.

HE MADE YOU FEEL GUILTY IF YOU HAD A SCHEDULED DAY OFF.

4. MAX GOES TO LUNCH WITH TERESA SCH. (UPC ASSOCIATE) DAILY.
5. MAX ALWAYS LETS TERESA SCH. SET IN ON ALL CONFERENCE CALLS (EVEN WHEN THE ASSISTANTS WERE NOT ALLOWED) THE LAST ONE WAS ON 2-19-2009 OR 2-20-2009. TONY, SAMMY AND TONJA WERE ALL THERE THAT DAY AND MAX SAID WE COULD NOT BE IN ON IT. IT WAS MAX AND TERESA.
6. WHEN MAX WOULD TALK TO ANY ASSISTANT HE WOULD ALWAYS HAVE TERESA SCH. IN THERE ALSO.
7. MAX HAS ACTUALLY TOLD ME ON TWO DIFFERENT OCCASIONS THAT HE LOVES TO PUSH (JAQUELINE A. AND TERESA CHA.) TO WHERE THEY ALMOST CRY. WHILE MAX WAS SAYING THIS BOTH TIMES HE WOULD RUB HIS HANDS TOGETHER.
8. IN FRONT OF ALL THE OTHER ASSISTANTS AND ASSOCIATES HE WOULD PUT THE ASSISTANT THAT WAS NOT THERE, DOWN. IF MAX FEELS CERTAIN WAYS ABOUT ANY ASSISTANT HE NEEDS TO KEEP IT TO HIMSELF OR WITH THAT ASSISTANT, NOT THE ENTIRE STORE.
9. ALL ASSOCIATES IN THE ENTIRE STORE, BE IT AN HOURLY OR MANAGEMENT ARE AFRAID TO SAY ANYTHING. THEY ARE AFRAID MAX WOULD BE HARDER ON THEM OR EVEN A FEW OF THEM ARE AFRAID THEY WILL LOOSE THEIR JOB.
10. TERESA SCH. TYPED ALL THE ASSISTANTS EVALS. AND EMAILED THEM TO THE MARKET. THERE AGAIN SHE IS AN HOURLY ASSOCIATE. AS ASSISTANTS WE DID NOT EVEN KNOW WHAT OUR EVALS. WERE. TERESA WAS ALSO IN MAX'S OFFICE WITH THE DOOR SHUT AND SOMETIMES LOCKED WHILE SHE WAS DOING THIS.
11. MAX FOR THE MOST PART WOULD ALWAYS SAY, HE RUNS THAT STORE NOT THE MARKET. MAX WOULD ALWAYS SAY IF HE WOULD GO DOWN THEN WE ALL WOULD GO DOWN TOGETHER AND WE JUST OPEN OUR OWN STORE.
12. AS ASSISTANTS OR ANY ASSOCIATE HOW DARE WE CALL ANY OTHER STORE TO ASK A QUESTION. MAX WOULD ALWAYS SAY WE HAVE ALL THE ANSWERS HERE AT KITTY HAWK. MAX THOUGHT IT MADE HIM LOOK BAD IF WE ASKED A QUESTION TO A SISTER STORE.
13. IF YOU WERE THE OPENING ASSISTANT YOU WERE EXPECTED TO STAY UNTIL MAX LEFT. IF MAX WAS THERE UNTIL 6 OR 7PM YOU WERE THERE UNTIL THEN. IT WAS SAID IT WAS A FORM OF RESPECT.

14. MAX ALSO HAS WENT BEYOND AND ABOVE FOR ONE ASSOCIATE.  
JONATHAN BRY. AS MANAGEMENT WE WOULD TRY TO HELP HIM.  
JONATHAN HAS SOME LEARNING DISABILITIES AND MENTAL ISSUES.  
MAX GOT HIM IN SCHOOL AND HAS BEEN HELPING HIM, BUT IT WAS GETTING  
OUT OF CONTROL. MAX HAS A FILE IN MAX'S FILEING CABINET THAT IS  
JONANTHANS. IN THIS FILE IS MONEY IN AN ENVELOPE (THAT WAS BEING  
USED AS A SAVEINGS ACCOUNT) ALSO HIS CAR INSURANCE RECIEPTS,  
CAR PAYMENT RECIEPTS, ECT.....ALSO DOC. APPOINTMENTS . WHEN  
MANAGEMENT WOULD GIVE HIM MONEY OUT OF THE ENEVELOPE WE  
WOULD SIGN OUR ANITIALS AND DATE IT.

PERSONAL RELATED TO TONJA MOORE---EX ASSISTANT MANAGER STORE 2000  
KITTY HAWK. MAX DUTTON STORE MANAGER STORE  
2000 KITTY HAWK..

1. WHEN I TONJA MOORE WAS A SUPPORT MANAGER ON 3RD SHIFT. EVERY  
MORNING WHEN MAX AND MYSELF WOULD HAVE OUR MEETING HE WOULD  
ALWAYS TELL ME EVERYTHING I DID WRONG AND NEVER ANYTHING I  
DID RIGHT. MAX WOULD ON A NUMBER OF OCCASIONS WOULD TAKE HIS  
FINGER AND POKE ME IN THE ARM OVER AND OVER UNTIL HE WOULD  
PUSH ME TO CRY AND THEN HE WOULD ALWAYS LOOK AT ME AND SAY  
I AM JUST TRYING TO GET YOU TO GROW THICK SKIN. MAX DID THIS FOR  
2 YEARS.
2. MAX WAS ALWAYS TRYING TO CORRECT THE WAY I TALK. I WAS NEVER  
DISRESPECTFUL. I AM FROM W.VA. AND WE SAY SOME WORDS DIFFRENT  
THAN HERE IN NORTH CAROLINA. HE STARTED DOING THIS OVER THE  
WALKIES TO WERE EVERYONE COULD HEAR HIM. SOME OF THE WORDS  
WERE BUGGIES OR POP ECT.....SO THE ASSOCIATES THAT WOULD HEAR THIS  
WOULD ALSO COME UP TO ME AND MAKE FUN OF ME.
3. MAX ALL DAY LONG EVERY DAY MADE FUN OF ME BECAUSE I DO NOT EAT  
MEAT. HE WOULD ALWAYS SAY I COULDN'T BE HEALTHY BECAUSE I DON'T  
EAT MEAT. TERESA IS THE MANAGER OF SUBWAY IN OUR WALMART,  
WHILE I WOULD ORDER HE WOULD ALWAYS TELL HER TO DOUBLE THE  
ROAST BEEF OR THE MEAT, EVERY SINGLE TIME I WOULD TRY TO EAT AND  
WHILE I WAS EATING I HAD TO LISTEN TO HIM MAKE FUN OF ME.
4. ONE DAY MAX CAME IN THE OFFICE AND HE CALLED ME IN THERE AND  
HE PULLED OUT A 8 BY 10 PICTURE THAT WAS MY ASSISTANT MANAGER  
PICTURE FROM OUTSIDE MAX'S OFFICE THAT HE HAD BLOWN UP AND HAD  
A STATEMENT ADDED TO THE BOTTOM OF THE PICTURE THAT STATED-----  
I NEED PROTIN. I LIKE BEING SICK. HE HAD SHOWN THES PICTURES TO A  
ASSOCIATES, I THINK ANN, TERESA SCH., TERESA CHA, ALL THE  
ASSISTANTS AND OF COURSE WHYNN D IN PHOTO. I THINK HE WAS THE ONE  
WHO ADDED THE WORDS TO THE BOTTOM OF THE PICTURE--NOT SURE. I

CAN NOT REMEMBER EVERYONE HE SHOWED. HE WOULD CARRY THESE PICTURES AROUND WITH HIM IN HIS BLACK BREIF CASE FOR A FEW WEEKS.

5. ONE DAY SOON AFTER MAX CALLED ME TO THE OFFICE AND HAD A DOC. DIET PLAN AND EXERCISE PLAN. THE PLAN IS ABOUT 15 TO 20 PAGES LONG. MAX TOLD ME HE WANTED ME TO FOLLOW IT BECAUSE THERE WAS NO WAY I COULD BE HEALTHY. HE TOLD ME TO SUBSITUTE THE MEAT PORTION OF THE PLAN WITH MY SOY PRODUCTS BUT I NEEDED TO EAT MORE FRUITS AND VEGITABLES. THAT DAY HE ALSO HANDED ME A COPY OF THE PICTURE AND LAUGHED AND SAID YOU THINK THATS THE ONLY COPY I HAVE PLENTY MORE AND THATS WHEN HE SHOWED ME HE HAD 10 OR MORE COPIES IN HIS BLACK BAG.
6. MAX HAS ALWAYS BEEN HARDER ON WEMON THAN ON MEN. HE WAS ALWAYS HARDER ON ME THAN THE OTHER ASSISTANTS.
7. IF YOU ASK ANY OTHER ASSISTANT NO MATTER WHAT SHIFT THEY ARE ON THEY WILL TELL YOU HE TREATED ME DIFFRENT PUSHING ME MAKEING FUN OF ME ECT.....ALL THE OTHER ASSISTANTS HATED WORKING WITH ME BECAUSE THEY SAID MAX WAS ALWAYS WORSE, WITH HIS ATTITUDE ECT....
8. I HAD MENTIONED TO MAX THAT I WAS WANTING TO GO TO FLORIDA AND HE TOLD ME NEVER TO LET THE MARKET KNOW BECUSE YOU ALL WOULD LOOK BAD AT ME BECAUSE I WAS WANTING TO LEAVE THE MARKET. ALSO AS SOON AS I MENTIONED IT I HAD TO HEAR IT EVERY DAY, THAT I DON'T CARE ABOUT THIS STORE ANY MORE AND I AM ALREADY DOWN THERE. THE ASSOCIATES AREN'T WORKING FOR YOU ANYMORE THEY HAVE GAVE UP BECAUSE YOU ARE LEAVING THEM ECT....AND NONE OF THAT WAS TRUE ALL THE MARKET TEAM HAS TO DO IS ASK ANY OF THE ASSOCIATES THEY WILL TELL YOU THE TRUTH. ALSO THIS REALLY MADE ME MAD..... MAX LISTENED IN ON MY VERY FIRST INTERVIEW WITH A STORE IN FLORIDA. WHEN I GOT OFF THE PHONE HE CAME DOWN THERE AND MADE A COMMINT ABOUT SOMTHING I SAID DURING MY INTERVIEW. THE ONLY WAY HE WOULD HAVE KNOWN ANY PART OF THAT HE HAD TO HAVE LISTENED. DURING THE INTERVIEW I WAS ASKED A QUESTION ABOUT BALANCING DAILY TASK. I ANSWERED IT'S LIKE BEING IN A DIVISION 1 STORE ALOT OF TIMES YOU RUN THE ENTIRE STORE. IF YOU HAVE A GUN SALE YOU HAVE 3 ASSOCIATES WAITING ON YOU AND THEN YOU ALSO HAVE A CALL AT THE SERVICE DESK. SO I TOLD THEM IN PRIORITY WHAT YOU WOULD HAVE TO DO FIRST. THEN MAX WHEN HE CAME DOWN TO THE OFFICE WHEN I WAS DO WITH THE INTERVIEW HE WAS MAKING RUDE COMMINTS LIKE SINCE YOU RUN THE WHOLE STORE BY YOURSELF AND I AM NO BODY AND YOU RUN FROM THE GUN SALE TO THE SERVICE DESK AND HELPING ALL THE ASSOCIATES YOU DON'T NEED ME WHO AM I?????? HE WASN'T NICE ABOUT IT AT ALL. SO I HEARD ABOUT THAT FOR A FEW DAYS. HE INVADED

MY PRIVACY.

9. MAX ALSO CUSES ALL THE ASISSTANTS.

10. RECENTLY MAX HAS PUT ME AND THE OTHER ASSITANTS DOWN IN FRONT OF ASSOCIATES. HE WILL NOT SHUT THE DOORS AND HE BEGINS TO YELL. CHERYL HER. SPORTINGGOODS DEPT. MANAGER HEARD HIM LAST TIME. THIS TIME WAS IN PERSONAL WHEN TERESA SCH. AND DEBBIE GIBBSON, AND CHERYL HER WAS OUTSIDE THE OFFICE AND HE DIDN'T SHUT THE DOOR.

11. THE WHOLE SITUATION WITH JONATHAN BRY. MAX WAS HELPING HIM BUT THEN MAX GOT TIRED OF HIM SO HE HAD ME DO ALL THIS. I WAS HELPING HIM WITH EVERYTHING. I WAS HIPPA APPROVED WITH HIS SHRINK AND I WENT WITH JONANTHAN TO THE DR WITH HIM ALSO HAD TO SHOW HIM 2 DIFFRENT TIMES WHERE HIS TUTOR FOR SCHOOL WAS HE HAD TO FOLLOW ME TO HIS HOUSE. I HAVE ALSO HAD TO CALL RESOURCES FOR LIVING ONCE BECAUSE I TOLD MAX EVERY DAY OR EVERYOTHER DAY I WAS IN THE OFFICE WITH JONAHTAN BECAUSE HE WOULD BE SO UPSET CRYING AND TELLING ME OVER AND OVER AGAIN HE WAS GONNA KILL HIMSELF. I WOULD SPEND 2 HOURS OR SO EVERYTIME WITH HIM. MAX DIDN'T DO ANYTHING AT FIRST SO THATS WHY I CALLED R FOR L. I DIDN'T KNOW WHAT TO DO. FINALLY I HAD A BIG TALK WITH MAX SO THATS WHEN HE FINALLY TOOK ME SERIOUS. I WAS JUST PUT IN A SITUATION THAT WAS BEYOND OUR CONTROL. WE SHOULD HAVE LET SOMEONE OF HIGHER POWER DEAL WITH THIS.

12. IN A YEAR AND A HALF I CALLED OFF 2 TIMES AND THE SECOND TIME WAS WHEN I WAS WORKING ON THIRD SHIFT BECAUSE ANOTHER ASSISTANT WALKED OUT. RICHARD WAS ALSO WORKING THAT NIGHT SO I CALLED RICHARD AND TOLD HIM I HAD SOMETHING PERSONAL I HAD TO TAKE CARE OF IF THAT WAS ALRIGHT WITH HIM AND HE SAID SURE. I THEN CALLED MAX TO LET HIM KNOW AND HE WENT OFF ON ME TELLING ME I WILL GO TO WORK AND FOR ME TO HANG UP AND CALL HIM BACK AND LET HIM KNOW WHAT TIME I WILL BE GOING TO WORK. I TOLD HIM SIR THAT WILL NOT BE NESISSARY BECAUSE I AM TELLING NOW THAT I HAVE SOMETHING PERSONAL TO TAKE CARE OF AND I WILL NOT BE IN. WELL OF COURSE HE WAS STILL GOING OFF. THEN HE SAID OK. THEN I GET A PHONE CALL FROM SAMMY ASSISTANT MANAGER HE SAID LISTEN TONJA I AM ONLY DOING THIS BECAUSE MAX TOLD ME TO. I TOLD SAMMY I UNDERSTOOD, I KNOW HOW HE IS. SAMMY SAID MAX TOLD HIM TO GO OUTSIDE OUTBACK OUT THE EXIT DOORS AND CALL ME. HE TOLD ME MAX TOLD HIM TO TELL ME THAT IF I DIDN'T COME IN THAT IT WOULD NOT BE PLEASANT FOR ME THE NEXT FEW DAYS. I THEN TOLD SAMMY I FOR SURE AM NOT COMING NOW. AND I ALSO SAID WHO DOES MAX THINK HE IS TELLING ME THE SECOND TIME IN A YEAR AND A HALF THAT I CALLED OFF THAT I CAN'T. HE IS NEVER AT THE STORE . HE IS ALWAYS DOING COUNTY COMMIS WORK

OUR FAMILY THINGS ECT..HE IS ALWAYS GONE. SO ANY WAYS I DIDN'T  
GO IN AND OF COURSE I HAD TO HEAR ABOUT IT AS USUALL.  
THE ONLY TIME YOU COULD CALL OFF IS IF YOU WERE IN THE HOSPITAL-----  
THAT IS WHAT MAX HAD TOLD ALL THE ASSISTANTS OVER AND OVER AGAIN.

PLEASE PLEASE PLEASE PLEASE LOOK INTO PLEASE I JUST DON'T WANT  
ANYONE ELSE GOING THROUGH THE SAME THING I DID FOR ALL THESE YEARS!